

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1-6, 9-17 and 21-24 were pending in the application. Claims 6, 9, 21 and 24 have been amended. New claims 25-30 were added. Claims 1-5 and 12-17 have been withdrawn from consideration. Claims 6, 9-11 and 21-30 are pending for consideration.

Rejection under 35 U.S.C. § 112

Claims 9 and 21-24 stand rejected under 35 U.S.C. § 112. Applicants have amended claims 9, 21 and 24 to address the issue raised in the Office Action and submit that the rejection has been overcome.

Allowable subject matter

Applicants appreciate the indication that claims 9 and 24 contain allowable subject matter. Applicants have amended claim 9 to be in independent form, and to overcome the rejection under 35 U.S.C. 112, second paragraph. Accordingly, claim 9 is in allowable form. New claims 25-30 ultimately depend from claim 9, and are thus likewise allowable.

Rejections under 35 U.S.C. §§ 102 and 103

Claims 6, 10 and 11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,413,449 to Wieland et al. (hereafter "Wieland"). Claims 21-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wieland in view of U.S. Patent 4,058,485 to Cheung (hereafter "Cheung"). Applicants respectfully request reconsideration of these rejections for at least the following reasons.

Independent claim 6 is directed to a method requiring "preparing a metal oxide support using powder selected from the group consisting of Ce oxide powder and Ce-Zr complex oxide powder to provide the support consisting essentially of a material selected from the group consisting of Ce oxide and Ce-Zr complex oxide." While Wieland discloses a catalyst including a support material which may be zirconium oxide (col. 4, lines 59-67), Wieland does not disclose preparing a metal oxide support using powder selected from the group consisting of Ce oxide powder and Ce-Zr complex

oxide powder to provide the support consisting essentially of a material selected from the group consisting of Ce oxide and Ce-Zr complex oxide. Thus, Wieland fails to disclose or suggest the present invention of claim 6, and claim 6 is patentable for at least this reason.

Cheung also fails to disclose preparing a metal oxide support using metal oxide powder selected from the group consisting of Ce oxide powder and Ce-Zr complex oxide powder to provide the support consisting essentially of a material selected from the group consisting of Ce oxide and Ce-Zr complex oxide, and thus does not cure the deficiencies of Wieland.

Dependent claims 10, 11 and 21-24 ultimately depend from independent claim 6, and are patentable for at least the same reasons, as well as for further patentable features recited therein, when considered as a whole.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

Information Disclosure Statements

Applicants filed on April 20, 2001 an Information Disclosure Statement ("the 2001 IDS") with accompanying PTO Form 1449 listing a number of documents. On November 10, 2003, Applicants submitted a copy of the 2001 IDS, the accompanying Form PTO-1449 and the cited documents, along with the date-stamped postcard indicating receipt by the Patent Office. Applicants again respectfully request that the listed documents on the Form PTO-1449 of the 2001 IDS be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO-1449 be returned in accordance with MPEP §609.

Applicants also filed on December 11, 2003, an IDS ("the 2003 IDS") along with copies of six references cited in a German Office Action dated May 20, 2003 during the prosecution of a corresponding German application. The outstanding U.S. Office Action states that one of the references, DE 253160, cited in the 2003 IDS has not been considered, for the reason that the citation of this document without its accompanying translation, English-language abstract or statement of relevance is said not to be in compliance with MPEP 609. Applicants submit that citation of DE 253160 in the 2003 IDS is in compliance with MPEP 609, since Applicants supplied the following statement of relevance with respect to DE 253160 (and the remaining references cited): "All documents listed on the attached PTO/SB/08 were cited in an Office Action dated May 20, 2003 during the prosecution of a corresponding German application." Thus, the relevance of DE 253160 (and the remaining references cited) is that they were all cited in a corresponding German

application. Applicants note that a translation of a foreign language document or an English language abstract thereof is not required as a statement of relevance, and need not be submitted unless it is "readily available" (See MPEP 609). Unfortunately, DE 253160 is so old (1911) that no English abstract is readily available. The German patent relates to a process producing ethylene from acetylene and hydrogen in the presence of a catalyst that includes at least one noble metal and one metal reselected from iron, nickel, cobalt, copper, silver, magnesium, zinc, cadmium, and aluminum. The two metals can be applied to a porous support, such as carbon, clay, porcelain or asbestos, simultaneously or in series. Thus, the requirements MPEP § 609 have clearly been satisfied with respect to DE 253160, and it is respectfully requested that the prior art reference be considered and made of record in the present application. For the convenience of the Examiner, Applicants attach herewith a modified PTO/SB/08 listing DE 253160 to be initialed by the Examiner.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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